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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Arguments

Applicant's arguments filed July 24, 2008 have been fully considered but they are not persuasive.

Regarding the arguments concerning unexpected results, the direct comparison of example silicas 9, 2, and 7 (Table 17) to the silica of Hartmann et al. (US Pat. No. 5,959,005), AEROSIL™ R8200, show conflicting results. At some points (0 min) the sieve residue is less than AEROSIL™ R8200, but after mixing (60 min) AEROSIL™ R8200 has a lower sieve residue. As such, it is not clear how the silicas of examples 9, 2, and 7 are show unexpectedly better results. In addition, the scope of the claim is larger than the selected examples, as the examples include further variables such as milling after structure modification (Table 11).

Regarding the combination of Hartmann et al. and Menon et al. (US Pat. No. 6,159,540), While Menon et al. does teach the formation of impurities when capping silanes with DMDCS and MTCS (4:16-42), Menon et al. also teaches that the silica can be purified by extraction. Furthermore, Menon et al. teaches the advantages of using MTCS or DMDCS as opposed to single site reactive silanes, such as a lower cost, and the availability of two or three reactive sites as opposed to single site reactive silicas (3:37-53) (i.e. HMDS of Hartmann et al.) which would lead to stronger, more stable, capping of silicas. In addition, the ability of using MTCS from waste streams for making silicone (waste streams that would not contain HMDS) (4:1-8) would lead to an economic advantage as the MTCS would not have to be purchased separately, and would also lead to a more environmentally beneficial process (4:1-8).

Regarding the combination of Hartmann et al. and Koehlert et al. (US Pat. No. 5,928,723), the broad teaching of Koehlert et al. that surface modified silicas are useful as free flow agents in herbicides and insecticides (agricultural chemicals) and fire extinguishing powders (1:47-61), and the fact that Hartmann et al. is concerned with surface modified silicas useful as free flow agents, especially in fire extinguishing powders (1:40-60) would suggest to one of ordinary skill in the art that the silicas of Hartmann et al. in view of Menon et al. would also be useful in herbicides and insecticides (agricultural chemicals).

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER F. GODENSCHWAGER whose telephone number is (571)270-3302. The examiner can normally be reached on Monday-Friday 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571) 272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

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/Mark Eashoo/
Supervisory Patent Examiner, Art Unit 1796
12-Aug-08

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